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February 12, 2008

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VIA FACSIMILE & U.S. MAIL

Chairman Ross Johnson
Fair Political Practices Commission
428 J Street
Sacramento, CA 95814

**Re: February 14, 2008 Agenda Item #15
Proposed Regulation 18421.7 and Amendment to Regulation 18401**

Dear Chairman Johnson:

On behalf of the California Political Attorneys Association ("CPAA"), I am writing to provide comments regarding proposed Regulation 18421.7 and the proposed amendment to Regulation 18401. We urge you to consider these issues in evaluating the proposed regulatory changes at the February 14, 2008, Commission meeting.

Regulation 18421.7

"Briefly Describe" Political, Legislative or Governmental Purpose

Subdivision (a) of proposed Regulation 18421.7, provides that candidate controlled committees must "briefly describe" the political, legislative or governmental purpose ("PLG") of itemized expenditures for gifts, meals or out-of-state travel. We recognize that the term "briefly describe" has been proposed in an effort to avoid lengthy explanations of an expenditure's PLG beyond the "brief description" requirement of Government Code Section 84211(k)(4).

However, the term "briefly describe" does not provide committees with adequate guidance regarding descriptions that will be acceptable under Regulation 18421.7. For example, is the description "state business" adequate to describe the PLG purpose of a meal expense, or must the committee refer to a particular Assembly bill number or issue discussed during the meal (e.g. "AB 1" or "healthcare bill")? Similarly, for out-of-town travel expenditures, brief descriptions may range from "legislative conference" to "attendance at clean energy conference for ideas regarding proposed legislation".

While we are not advocating for a regulation that contains a laundry list of acceptable phrases, we ask the commission to publicly identify the types of descriptions it is

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seeking, and to direct its staff to issue a fact sheet or other publication providing further guidance to the regulated community.

Meal Expenses

Subdivision (a)(2) requires additional disclosure for meal expenses incurred by candidate controlled committees. The way in which the regulation has been drafted suggests that the additional disclosure requirements apply to all meal expenses incurred by a committee – whether or not a candidate, a member of the candidate's household or an individual authorized to approve the committee's expenditures is included in the meal. We believe it would be unnecessarily burdensome to require such disclosure for all meals, and that the proposed regulation should apply only to those meals involving a candidate, member of the candidate's household or individual authorized to approve the committee's expenses.

As drafted, the regulation would capture, for example, pizza expenditures for campaign volunteers and purchases of coffee and donuts for campaign workers that exceed the reporting thresholds. While we are mindful of the public's interests in full disclosure and accountability, we do not believe those interests are any better served by the new disclosure requirements in these circumstances. Moreover, the burdens imposed on candidates and their committees to account for the number and names of each individual who participated in such a meal would appear to outweigh any arguable benefit that may result – unless, of course, the candidate, a member of his or her household or an authorized individual also were to participate in the meal.

Consequently, we suggest that proposed subdivision (a)(2) be rewritten as follows:

For an expenditure on a meal attended by the candidate, a member of the candidate's "household" as defined by Section 89511(b)(4), or an individual with the authority to approve expenditures of the committee's campaign funds, other than a meal reported as an expenditure for out-of-state travel, the date of the meal, the number of individuals for whom the expenditure was paid, and whether the candidate, member of the candidate's "household," or individual with authority were present.

We believe that the suggested language would more equitably address the Commission's concerns regarding the personal use of campaign funds, without imposing burdensome record-keeping and reporting requirements in circumstances where personal use is not an issue. Alternatively, we ask the Commission to consider providing an exception to the requirements of subdivision (a)(2) for meal expenditures involving campaign workers and volunteers.

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Regulation 18401

Finally, the proposed amendment to Regulation 18401 requires committees to document itemized expenditures for gifts, meals, and out-of-state travel by maintaining a "dated memorandum" containing the information that is required under Regulation 18421.7, as well as the names of individuals for whom a meal or out-of-state travel expenditure was paid. We request clarification from the Commission regarding the nature and form of the required written memorandum.

Specifically, is the Commission suggesting that a separate formal written memorandum is required for each expenditure that may be subject to the additional disclosure requirements under Regulation 18421.7? Or may the committee prepare a comprehensive memorandum containing the required information for all expenditures disclosed during a single reporting period? Alternatively, may the committee place a dated handwritten note on the original source documentation (such as a receipt or credit card statement) providing the information required by Regulation 18421.7, rather than preparing a separate memorandum? We urge the Commission to accept handwritten notes or memoranda in whatever form, as long as they are dated and contain the information required by proposed subdivision (a)(5) of Regulation 18401.

We thank you for your consideration of these issues in considering the proposed regulatory changes at your upcoming February 14, 2008, meeting. A representative of CPAA will be available at the meeting to answer any questions you may have regarding the issues addressed in this letter.

Sincerely,



Stephen J. Kaufman
CPAA Regulatory Subcommittee

cc: Commissioner Ray Remy
Commissioner A. Eugene Hugeunin, Jr.
Commissioner Robert Leidigh
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Scott Hallabrin, General Counsel
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